

### REMARKS

Claims 1, 3-8, 10-20, 22-24, 26-31, 33-43, and 45-50 are pending in the present application. Claims 1-50 were presented for examination. Claims 2, 9, 21, 25, 32, and 44 have been cancelled by amendment.

In the office action mailed November 22, 2005 (the "Office Action"), the Examiner rejected claims 1-13, 18-36, and 41-50 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,578,005 to Lesaint *et al.* (the "Lesaint patent"), in view of U.S. Patent Application Publication No. 20010049619 to Powell *et al.* (the "Powell reference"). Claims 14-17 and 37-40 were rejected under 35 U.S.C. 103(a) as being unpatentable over the Lesaint patent, in view of the Powell reference, and in further view of U.S. Patent No. 5,615,121 to Babayev (the "Babayev patent").

As amended, claims 1, 6, 13, 24, 29, 36, and 47 are patentable over the combined teachings of the Lesaint patent in view of the Powell reference.

Claims 1, 6, 13, 24, 29, and 36 have been amended to include the limitation of assigning a window hierarchy to each work area, each window hierarchy corresponding to a set of appointment windows and associated with at least one skill level assigned to the work area. Claim 47 has been amended to include assignment of a window hierarchy to each work area, each window hierarchy corresponding to a set of appointment windows and associated with at least one skill level assigned to the work area. Amended claims 1, 6, 13, 24, 29, and 36 are similar to claims 2, 9, 21, 25, 32, and 44, respectively, which have been cancelled.

With respect to claims 2, 9, 21, 25, 32, and 44, the Examiner argued that although the Lesaint patent does not disclose assigning a window hierarchy, the Powell reference discloses the limitation at paragraph 41. *See* the Office Action at pages 5 and 14. More specifically, the Examiner argued that the "service provider considers bands 20 of time windows, based upon technician skill level." *See id.*

Paragraph 41 of the Powell reference describes a solution to the problem of optimizing a schedule in light of unforeseen circumstances and unforeseen consequences. The solution involves assigning bands 20-26 of concentric circles around a central depot with different ranges of time. Field technicians leave from the central depot at the beginning of a work day and return to it at the end of the workday. The example described in the Powell reference uses two-hour bands of time, with later time ranges assigned to the bands further out

from the central depot. A customer request is scheduled by identifying the band in which the customer is located. The time range associated with the band in which the customer is located is used as the time window for scheduling the customer request. The Powell reference criticizes the proposed solution as being overly simplistic and mentions that there are difficulties in implementing such a solution.

Amended claims 1, 6, 13, 24, 29, 36, and 47 are patentable over the Lesaint patent in view of the Powell reference because those ordinarily skilled in the art would not have been motivated to combine the teachings of the two references, as argued by the Examiner, and additionally, assuming that the teachings of the two references are combined, the combined teachings fail to teach or suggest the combination of limitations recited by the claims.

As previously discussed, the description at paragraph 41 of the Powell reference is critical of using the solution described with reference to Figure 2. Specifically, the approach is described as overlooking key aspects of the scheduling problem and having difficulties in choosing time windows associated with the geographic boundaries of the bands of concentric circles. In short, as suggested in the previously submitted response, the Powell reference teaches away from using the solution described in paragraph 41. Assuming for the sake of argument that the Examiner's characterization of the bands 20 of time as being analogous to the window hierarchy recited in the claims is accurate, no one ordinarily skilled in the art would be motivated to combine the solution of paragraph 41 of the Powell reference with the teaching of the Lesaint patent to arrive at the claimed invention. Lacking the motivation to combine, a *prima facie* case of obviousness is not established, and the Examiner's rejection under 35 U.S.C. 103(a) of claims 1, 6, 13, 24, 29, 36, and 47 must be withdrawn.

Alternatively, even if the teachings of the Lesaint patent and the Powell reference were combined, they do not teach or suggest the combination of limitations of claims 1, 6, 13, 24, 29, 36, and 47. The Examiner characterizes the Powell reference as teaching that a service provider considers bands 20 of time windows, based upon technician skill level and argues that this teaching discloses the assignment of at least one window hierarchy as recited in claims 1, 6, 13, 24, 29, 36, and 47.

The Examiner's characterization of considering bands 20 of time windows based upon technician skill level is contrary to the plain language of the Powell reference. The solution described in paragraph 41 assumes that all of service technicians are capable of the *same* skills.

That is, the bands of time windows are chosen *independent* of the skills of the particular technicians. This simplification is criticized because it overlooks “key aspects of the scheduling problem (such as *skills* and other constraints).” *See* paragraph 41 (emphasis added). Thus, despite the Examiner’s assertion to the contrary, the bands 20 of time are not based on technician skill level at all.

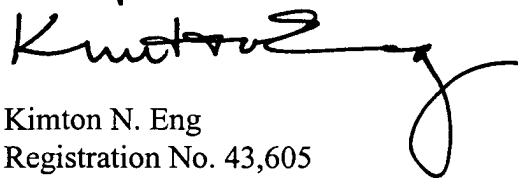
For the foregoing reasons, claims 1, 6, 13, 24, 29, 36, and 47 are patentable over the Lesaint patent in view of the Powell reference. Claims 3-5, which depend from claim 1, claims 7, 8, 10-12, which depend from claim 6, claims 18-20, 22, and 23, which depend from claim 13, claims 26-28, which depend from claim 26-28, claims 30, 31, and 33-35, which depend from claim 29, claims 41-43, 45, and 46, which depend from claim 36, and claims 48-50, which depend from claim 47, are similarly patentable based on their dependency from a respective allowable base claim. Therefore, the rejection of claims 1, 3-8, 10-13, 18-20, 22-24, 26-31, 33-36, 41-43, and 45-50 under 35 U.S.C. 103(a) should be withdrawn.

As previously mentioned, claims 14-17 and 37-40 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the Lesaint patent, in view of the Powell reference, and in further view of the Babayev patent.

The Babayev patent has been cited by the Examiner for teaching (1) informing the customer service representative of the reason either validation failed; (2) providing the customer service representative with an indication that the reason for the failure was the result of insufficient projected service resources; and (3) providing the representative with the degree to which the requested appointment windows are overbooked. *See* the Office Action at pages 15-16. Even if it is assumed for the sake of argument that the Examiner’s characterization of the Babayev patent is accurate, the Babayev patent fails to make up for the deficiencies of the Lesaint patent and the Powell reference, as previously discussed with reference to claims 1, 6, 13, 24, 29, 36, and 47. Consequently, the combined teachings of the Lesaint patent, the Powell reference, and the Babayev patent fail to teach or suggest the combination of limitations recited by the respective claim. Therefore, the rejection of claims 14-17 and 37-40 under 35 U.S.C. 103(a) should be withdrawn.

All of the claims pending in the present application are in condition for allowance.  
Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,  
DORSEY & WHITNEY LLP

A handwritten signature in black ink, appearing to read 'Kimton N. Eng', with a long, sweeping horizontal stroke extending to the right.

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